IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

MACA.No. 816 of 2004()

OPMV.2616/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM

APPELLANT/PETITIONER

K.J.BABY, KAVUNGUMOALLIL HOUSE,
VELANILAM P.O., MUNDAKAYAM (VIA).

BY ADV. SMT.BETTY K.ALUKKA

RESPONDENTS: RESPONDENTS
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1. M.V.ANIL KUMAR, MULLAPPALLIL HOUSE,
KURUMULLOOR P.O., KANAKKARY.

2. SIMON.K.K., ATTUMALIL HOUSE,
CHELIKUZHY, MUNDAKAYAM.

3. NEW INDIA ASSURANCE CO.LTD.,
REPRESENTED BY ITS DIVISIONAL MANAGER,
KOTTAYAM.

R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T. SANKARAN, J.

M.A.C.A.NO. 816 OF 2004

Dated this the 12th day of December,2006

JUDGMENT

The petitioner in O.P.(MV) No.2616 of 1998, on the file of the Motor Accidents Claims Tribunal, Kottayam is the appellant in this appeal. The appellant claimed a sum of Rs.52,150/- as compensation, but it was limited to Rs.25,000/-. On 22.2.1998, while the appellant was travelling in an autorickshaw, owned by one Anil Kumar and driven by Simon, the autorickshaw capsized and the appellant sustained injuries. It is stated in the claim petition that the appellant was taken to Government Hospital, Kanjirappally and was later referred to the Medical College Hospital, Kottayam. He was referred back to the Government Hospital, Kanjirappally and was discharged on 15.3.1998. It is also submitted that he underwent outpatient treatment for two more months. The further case of the appellant is that he is permanently disabled and it has affected his earning power and amenities of life.

2. Before the Tribunal, four cases were tried together, including the one filed by the appellant. Exts.A8, A9 and A10 were the documents produced by the appellant herein. No oral evidence was adduced by any of the claimants. It is submitted by the learned counsel for the appellant that the practice that was being followed by the Tribunal was that the case would be disposed of on the basis of the pleadings and documentary evidence. Though I am not pronouncing upon this contention, the fact remains that the discussion in respect of the appellant's case is contained only in paragraph 10 of the Award wherein there is no consideration of the case put forward by the appellant in a proper manner. It is just stated that none of the petitioners produced any document to show the expenses of treatment and the claimants in three cases were allowed a total compensation of Rs.4,000/- each. On what basis the amount of compensation was arrived at and fixed is not seen in the award. There is no discussion at all as to the

various claims under different heads made by the appellant. The wound certificate or the injuries noted therein are not referred to. The award passed by the Tribunal is, therefore, liable to be set aside and I do so. The matter is remanded to the Claims Tribunal for disposal afresh after affording an opportunity to both parties to produce documents and to adduce evidence. The Tribunal shall consider the different claims put forward by the appellant and dispose of the same after considering the documentary and oral evidence, if any, in the case.

The parties shall appear before the Tribunal on 15.1.2007.

(K.T.SANKARAN)
Judge

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